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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,061	07/14/2003	Richard Thomas Gray	A01182	6906

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EXAMINER

MRUK, BRIAN P

ART UNIT PAPER NUMBER

1751

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

✓

Office Action Summary

Application No.

10/619,061

Applicant(s)

GRAY ET AL.

Examiner

Brian P. Mruk

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 19, 2006 has been entered.
2. This Office action is in response to Applicant's amendment filed May 19, 2006. Applicant has amended claims 1 and 3. Claims 2 and 4 have been cancelled. New claims 9-10 have been added. Currently, claims 1, 3, 9 and 10 remain pending in the application.
3. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper No. 20050325 and 20051214.
4. The rejection of claims 1-4 under 35 U.S.C. 112, first paragraph, is withdrawn in view of applicant's amendments and remarks.

5. The rejection of claims 1-4 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sonnabend, U.S. Patent No. 4,384,096, is withdrawn in view of applicant's amendments and remarks.

6. The rejection of claims 1-4 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Langley et al, U.S. Patent No. 5,744,152, is withdrawn in view of applicant's amendments and remarks.

NEW GROUNDS OF REJECTION

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 9-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the examiner notes that the instant specification does not provide support for the limitation "carbonate, bicarbonate, and acetate salts of iron, copper and zinc" recited in claim 9. It is noted that page 14,

lines 21-32 of the instant specification provides support for transition metal ions of iron, copper and zinc, but does not provide support for the specific transition metal ions of iron, copper and zinc with carbonate, bicarbonate and acetate, as presently claimed.

Claim 10 is included in this rejection, since claim 10 depends from claim 9.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Owens et al, U.S. Patent No. 5,319,018.

Owens et al, U.S. Patent No. 5,319,018, discloses an acid-functional polymer that is reacted with a transition metal compound (see abstract). It is further taught by

Art Unit: 1751

Owens et al that the polymers contain acrylic acid, methacrylic acid, butyl acrylate and methyl methacrylate monomers (see col. 4, line 14-col. 5, line 42), and that the polymers are crosslinked with transition metals, such as zinc carbonate and zinc acetate (see col. 6, lines 23-56), per the requirements of the instant invention. Owens et al further discloses that the resulting polymers are used as floor polish vehicles that further contain other formulation ingredients, such as surfactants (see col. 7, lines 62-67). Specifically, note the polymer in column 8 and Examples 1-19. Although Owens et al is silent with respect to the molecular weight of their polymers, the examiner asserts that the polymers disclosed in Owens et al would inherently meet the molecular weight requirements of the instant invention, since the polymers disclosed by Owens et al contain all of the required monomers in the percentages claimed in the instant claims, absent a showing otherwise. Therefore, instant claims 9-10 are anticipated by Owens et al, U.S. Patent No. 5,319,018.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

12. Claims 1, 3, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bardman et al, U.S. Patent No. 6,710,161.

Bardman et al, U.S. Patent No. 6,710,161, discloses a copolymer composition comprising an ethylenically unsaturated monomer, such as styrene, methacrylic acid,

Art Unit: 1751

methyl methacrylate, and butyl acrylate (see abstract and col. 3, lines 37-61). It is further taught by Bardman et al that the copolymer further contains a crosslinking polyvalent metal ion, such as zinc acetate, and compounds containing calcium, magnesium, and barium (see col. 11, line 55-col. 12, line 26), that the copolymers are used in composite particles, wherein pigment particles are surrounded by the copolymers (see col. 13, lines 12-24), and that the composite particles may further contain dispersants, such as copolymer of acrylic acid (see col. 14, lines 51-63). Specifically, note Examples 1-5. Although Bardman et al generally discloses a copolymer containing ethylenically unsaturated monomers, such as styrene, methacrylic acid, methyl methacrylate, and butyl acrylate, the reference does not require such copolymer compositions containing these monomers with sufficient specificity to constitute anticipation.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to have formulated a copolymer composition, as taught by Bardman et al, which contained styrene, methacrylic acid, methyl methacrylate, and butyl acrylate monomers, because such copolymer compositions fall within the scope of those taught by Bardman et al. Therefore, one of ordinary skill in the art would have had a reasonable expectation of success, because such a copolymer composition containing styrene, methacrylic acid, methyl methacrylate, and butyl acrylate monomers is expressly suggested by the Bardman et al disclosure and therefore is an obvious formulation.

Response to Arguments

13. Applicant's arguments with respect to claims 1, 3, 9 and 10 have been considered but are moot in view of the new ground(s) of rejection.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPM

Brian P Mruk
July 26, 2006

Brian P. Mruk

Brian P Mruk
Primary Examiner
Art Unit 1751